IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 59 OF 2009

Sudharshan Chemical Industries Ltd. .. Applicant
Pune

v/s.

The Commissioner of Income Tax, Pune .. Respondent

Mr. Ruturaj Gujar i/b Mr. Mihir Naniwadekar for the aplicant
Mr. Suresh Kumar a/w Ms. Samiksha Kanani for the respondent

CORAM : M.S. SANKLECHA &
S.C. GUPTE, J.J.

DATED : 30th SEPTEMBER, 2016.

P.C.

1. By this Reference under Section 256(1) of the Income Tax Act, 1961, the Income Tax Appellate Tribunal has referred the following substantial questions of law for our consideration :-

(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in holding that while preparing the P & L account u/s 115J(1A) of the Act, the assessee was entitled to adopt the method of depreciation different from the method adopted by the assessee for corporate accounting ?

(ii) Whether on the facts and in the circumstances of the case,

> *the Tribunal was right and justified in coming to the conclusion that the word 'turnover' for the purpose of computation of deduction under Sec. 80HHC should exclude the amount of sales-tax and excise duty?"*

2. Re. Question (i):-

(a) It is an agreed position between the parties that the issue raised herein stands concluded against the assessee and in favour of the Revenue by the decision of the Supreme Court in ***Apollo Tyres Vs. Commissioner of Income Tax, 255 ITR 273***.

(b) In the above view, the question (i) is answered in the negative i.e. in favour of the Revenue and against the assessee.

3. Re. Question (ii) :-

(a) It is an agreed position between the parties that the issue raised herein stands concluded in favour of the assessee and against the Revenue by a decision in its own case in ***Commissioner of Income Tax Vs. Sudarshan Chemicals Industries Ltd. 245 ITR 769***. The view taken in *Sudarshan Chemicals (supra)* has been upheld by the Apex Court in ***Commissioner of Income Tax Vs. Lakshmi Machine Works, 290 ITR 667***.

(b) In the above view, question (ii) is answered in the negative i.e. in favour of the assessee and against the Revenue.

4. The Reference is disposed of in the above terms. No order as to costs.

(S.C. GUPTE, J.) **(M.S. SANKLECHA, J.)**